

CONSIDERED: /J.V.C./ (04/14/2009)

Attorney Docket No.: 16113-1313001 / GP-144-05

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : William H. Whitted Art Unit : 3637
Serial No. : 10/675,233 Examiner : Jose V. Chen
Filed : September 29, 2003 Conf. No. : 9853
Title : TILT-OUT SHELF GUIDE MECHANISM SUITABLE FOR RACK-MOUNT
COMPUTING SYSTEMS

Mail Stop Appeal Brief - Patents

Commissioner for Patents
P.O. Box 1450
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REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

In support of the Notice of Appeal filed May 23, 2008, appealing the Examiner's Final Rejection of each of claims 1-25 mailed November 23, 2007, and in response to the Examiner's Answer mailed December 16, 2008, Appellant hereby provides the following remarks.

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I hereby certify that this paper was filed with the Patent and Trademark Office using the EFS-WEB system on this date: February 17, 2009

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I. STATUS OF CLAIMS

Claims 1-25 are pending.

Claims 1-25 are under consideration.

No claims have been cancelled.

Claims 1-25 stand rejected.

Claims 1 and 14 are in independent form.

The final rejection of claims 1-25 is being appealed. Claims 1 and 14 are involved directly in the appeal. Claims 2-13 and 15-25 are not directly involved in the appeal but rather are involved only by virtue of their dependency from one of claims 1 or 14.

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II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-12 and 14-24 stand finally rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,931,978 to Drake *et al.* ("*Drake*"). This rejection is being appealed.

Claims 13 and 25 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable in view of *Drake*. This rejection is being appealed.

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III. ARGUMENT

Appellant responds to the Examiner's Answer mailed December 16, 2008 ("Answer"), by respectfully noting that the Answer suffers from the same defects as the prior Office Actions by: (1) ignoring several elements included in the present claims that clearly differentiate the claimed subject matter from *Drake*; and (2) improperly expanding the teachings of *Drake* by reading functionality and structure taught by beyond that actually disclosed in *Drake*. Accordingly, for at least the reasons below and those in the Appeal Brief submitted on September 23, 2008, Appellant respectfully requests reversal of the rejections of claims 1-12 and 14-24 as anticipated by *Drake*, and claims 13 and 25 as obvious in view of *Drake*.

First, the Answer, much like the previous Office Actions, improperly ignores features of independent claim 1,¹ specifically, the feature of "the pivot being supported by the pivot support of the guides such that when the front shelf end of the slidable electronics module shelf is lowered relative to the rear shelf end of the slidable electronics module shelf, the electronics module guides substantially support the slidable electronics module via the at least one pivot of the rear catch mechanism." The Answer fails to rebut any of Appellant's reasoning from the Appeal Brief as to the patentability of independent claim 1. For example, the Answer's reliance on the axle of roller 82 as being a pivot point is misguided, because when the drawer 30 is fully extended and tilted downward, that axle moves constantly upward in an arc over roller 75. Thus, the contact point between roller 82 and roller 75 likewise translates upward through a counterclockwise arc (when viewing the components as shown in FIG. 6 from *Drake* below). There is no pivot point in such a situation, and the moving axle of roller 82 most definitely is not a pivot point, since it is itself in motion relative to other fixed points that might otherwise be pivot points. Put another way, a pivot occurs at a fixed or anchored point, rather than a freely rotatable point, such as the axle of roller 82 positioned at the free-end of the drawer.

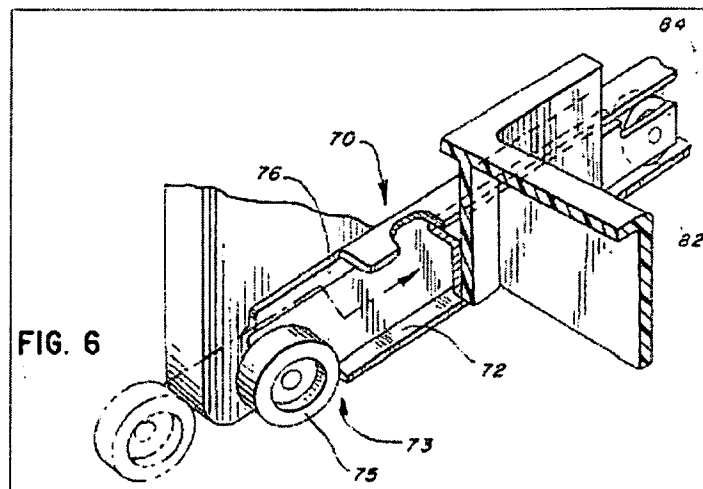
The other fixed points around the roller 75 are also not pivot points because the position of the drawer 30 with respect to them is constantly changing as it moves through its arc, and so the drawer is not pivoting on any of them. Rather, because roller 82 moves up and over roller

¹ "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385 (C.C.P.A. 1970) (M.P.E.P. § 2143.03).

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75, the drawer in *Drake* ultimately falls out of the guides precisely because there is no pivot point, but instead there are multiple disconnected components moving in arcs over one another. In short, such a constantly moving arcuate motion of the axle of the roller 82 is the antithesis of having a pivot point around which another structure pivots.



Even in view of these teachings of *Drake*, the Answer continues to improperly broaden *Drake* to allegedly read on independent claim 1's feature of a pivot of a slidable electronics module substantially supported by a pivot support of electronics module guides. Neither the Answer nor prior Office Actions give a proper reading of *Drake* in light of independent claim 1, which must be read in light of the present Application. The Application makes clear that the shelf is completely and substantially supported as the shelf rotates about the pivot up to at least 90 degrees from its installed position within the rack mount computing system. See Application at 9:4-8; 10:21-11:3; Figs 7-8.

Accordingly, Appellant respectfully submits that *Drake* fails to teach or suggest each and every element of independent claims 1 and 14 as required by the M.P.E.P. and U.S. patent laws. For at least the foregoing reasons, as well as those provided in the Appeal Brief, Appellant respectfully submits that the § 102(b) rejections are improper and requests reversal of the final rejection of independent claims 1 and 14, along with their dependents. Additionally, Appellant respectfully submits that the rejection of dependent claims 13 and 25 under § 103(a) cannot be maintained in view of the foregoing and the Appeal Brief and respectfully requests reversal of the final rejection of these claims.

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CONCLUSION

For at least these reasons, and the reasons stated in the Appeal Brief, Appellant submits that the final rejection of claims 1-25 should be reversed.

No charges are believed due at this time. If incorrect, please apply any charges or credits to Deposit Account No. 06-1050, referencing the attorney docket above.

Respectfully submitted,

Date: February 17, 2009

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